

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VERASONICS, INC., a Washington
corporation,

Plaintiff,

v.

ALPINION MEDICAL SYSTEMS
CO., LTD, a Korean corporation,

Defendant.

CASE NO. C14-1820-JCC

ORDER GRANTING MOTION TO
CONFIRM SECOND
ARBITRATION AWARD AND
AMEND JUDGMENT

This matter comes before the Court on Plaintiff Verasonics, Inc.'s unopposed motion to confirm the final arbitration award and amend judgment (Dkt. No. 42). Having thoroughly considered the briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS the motion for the reasons explained herein.

On March 2, 2017, arbitrator John Fellas issued a partial final arbitration award, granting injunctive relief in Verasonics's favor, awarding it monetary damages of \$2,914,000.00, and denying or dismissing all remaining claims except that for attorney fees. (Dkt. No. 32 at 2.) This Court confirmed the award and entered judgment in Verasonics's favor in accordance with the partial final arbitration award's terms. (Dkt. No. 40 at 3.)

Subsequently, a final arbitration award was issued reiterating the earlier award and further awarding Verasonics \$2,628,126.40 in fees and costs, plus arbitration fees and costs in

ORDER GRANTING MOTION TO CONFIRM
SECOND ARBITRATION AWARD AND AMEND
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1 the amount of \$110,059.54. (Dkt. No. 43-1.) Verasonics now asks the Court to confirm the final
2 arbitration award and amend the judgment accordingly. (Dkt. No. 42 at 1-2.)

3 Under the Federal Arbitration Act (FAA), if a party to an arbitration asks the appropriate
4 United States District Court “for an order confirming the [arbitration] award, . . . the court must
5 grant such an order unless the award is vacated, modified, or corrected as prescribed in sections
6 10 and 11 of this title.” 9 U.S.C. § 9. The Court’s review of an arbitration award is narrow:

7 sections 10 and 11 of the FAA permit a federal court to

8 correct a technical error, [] strike all or a portion of an award pertaining to an issue
9 not at all subject to arbitration, [or] vacate an award that evidences affirmative
10 misconduct in the arbitral process or the final result or that is completely irrational
or exhibits a manifest disregard for the law.

11 *Kyocera Corp. v. Prudential-Bache Trade Services, Inc.*, 341 F.3d 987, 997–98 (9th Cir. 2003).

12 None of the conditions permitting vacation, modification, or correction of the award are
13 present here. Defendant Alpinion Medical Systems does not oppose this motion and thus raises
14 no argument to the contrary. The Court confirms the award under the FAA.

15 The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New
16 York Convention) governs confirmation of foreign arbitral awards. June 10, 1958, 21 U.S.T.
17 2517. The Court “shall confirm the [arbitration] award unless it finds one of the grounds for
18 refusal or deferral of recognition or enforcement of the award specified in the said Convention.”

19 9 U.S.C. § 207. Under the New York Convention, seven grounds exist for refusal or deferral of
20 enforcement. New York Convention art. V. “These defenses are construed narrowly, and the party
21 opposing recognition or enforcement bears the burden of establishing that a defense applies.”

22 *Ministry of Defense and Support for the Armed Forces of the Islamic Republic of Iran v. Cubic*
23 *Defense Systems, Inc.*, 665 F.3d 1090, 1096 (9th Cir. 2011). Alpinion did not oppose the motion and
24 thus does not show that a defense applies. The Court confirms the award under the New York
25 Convention.

1 **In sum, Verasonics's motion (Dkt. No. 42) is GRANTED.** The June 7, 2017 final
2 award in *Verasonics, Inc. v. Alpinion Medical Systems Co., Ltd.*, ICDR No. 01-15-0002-9484 in
3 the American Arbitration Association, as modified by the disposition of application for
4 modification of award from the arbitration dated June 26, 2017, is CONFIRMED. The Court
5 ORDERS Alpinion to comply with the terms of the final award.

6 **The Clerk is directed to AMEND the judgment (Dkt. No. 41) to further require that:**

- 7 (1) The June 7, 2017 final award in *Verasonics, Inc. v. Alpinion Medical Systems Co.,*
8 *Ltd.*, ICDR No. 01-15-0002-9484 in the American Arbitration Association, as
9 modified by the disposition of application for modification of award from the
10 arbitration dated June 26, 2017, is confirmed; and
11 (2) Alpinion shall immediately pay Verasonics \$2,628,126.40 in fees and costs, plus
12 arbitration fees and costs in the amount of \$110,059.54.

13 DATED this 17th day of August, 2017.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE